

§ 1611.6

45 CFR Ch. XVI (10–1–04 Edition)

(F) Other significant factors related to financial inability to afford legal assistance.

(2) Factors which shall be used in the determination of the eligibility of clients under the maximum income level shall include:

(A) Current income prospects, taking into account seasonal variations in income;

(B) The availability of private legal representation at a low cost with respect to the particular matter in which assistance is sought;

(C) The consequences for the individual if legal assistance is denied;

(D) The existence of assets, including both liquid and nonliquid, which are available to the applicant and are in excess of the asset ceiling set by the recipient pursuant to § 1611.6;

(E) Other significant factors related to financial inability to afford legal assistance, which may include evidence of a prior administrative or judicial determination that the person's present lack of income results from refusal or unwillingness, without good cause, to seek or accept suitable employment.

(3)(A) If a recipient tentatively determines to serve a client over the maximum income level on the basis of factors listed in § 1611.5(b)(1), the factors listed in § 1611.5(b)(2) shall also be used before reaching a final determination.

(B) If a recipient tentatively determines not to serve a client under the maximum income level on the basis of factors listed in § 1611.5(b)(2), the factors listed in § 1611.5(b)(1) must also be used before reaching a final determination.

(c) A recipient may provide legal assistance to a group, corporation, or association if it is primarily composed of persons eligible for legal assistance under the Act and if it provides information showing that it lacks, and has no practical means of obtaining, funds to retain private counsel.

§ 1611.6 Asset ceilings.

(a) By January 30, 1984, and annually thereafter, the governing body of the recipient shall establish and transmit to the Corporation guidelines incorporating specific and reasonable asset ceilings, including both liquid and non-liquid assets, to be utilized in deter-

mining eligibility for services. The guidelines shall consider the economy of the service area and the relative cost-of-living of low-income persons so as to ensure the availability of services to those in the greatest economic and legal need.

(b) The guidelines shall be consistent with the recipient's priorities established in accordance with 45 CFR 1620 and special consideration shall be given to the legal needs of the elderly, institutionalized, and handicapped.

(c) Assets considered shall include all liquid and non-liquid assets of all persons who are resident members of a family unit, except that a recipient may exclude the principal residence of a client. The guidelines shall take into account impediments to an individual's access to assets of the family unit or household.

(d) Reasonable equity value in work-related equipment which is essential to the employment or self-employment of an applicant or member of a family unit, shall not be utilized to disqualify an applicant, provided that the owner is attempting to produce income consistent with its fair market value.

(e) The governing body may establish authority for the project director to waive the ceilings on minimum allowable assets in unusual or extremely meritorious situations. In the event that a waiver is granted, that decision shall be documented and included in the client's file. The recipient shall keep such other records as will provide information to the Corporation as to the number of clients so served and the factual basis for the decisions made.

§ 1611.7 Manner of determining eligibility.

(a) A recipient shall adopt a simple form and procedure to obtain information to determine eligibility in a manner that promotes the development of trust between attorney and client. The form and procedure adopted shall be subject to approval by the Corporation, and the information obtained shall be preserved, in a manner that protects the identity of the client, for audit by the Corporation.

(b) If there is substantial reason to doubt the accuracy of the information,